

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7406

BILL NUMBER: HB 1181

DATE PREPARED: Feb 20, 2001

BILL AMENDED: Feb 19, 2001

SUBJECT: IURC Enforcement Authority.

FISCAL ANALYST: John Parkey

PHONE NUMBER: 232-9854

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill gives the Indiana Utility Regulatory Commission (IURC) authority to impose certain penalties on a utility that violates Indiana utility law or fails to comply with an order of the Commission. The bill provides for the deposit of revenue collected through monetary penalties. The bill requires the Commission to provide to the Regulatory Flexibility Committee a report detailing the distribution of the penalties. The bill authorizes the Commission to order a utility to provide service within 24 hours if the Commission or division determines that the provision of service is necessary to prevent injury to any person or to alleviate an emergency except under certain circumstances outside the control of the utility. The bill provides that each day a utility fails to provide service after ordered by the Commission is a separate violation for purposes of the Commission's authority to impose monetary penalties. The bill provides that the Commission may require a public utility to post a reasonable performance bond as a condition of doing business in Indiana. The bill defines the term "violation".

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) This proposal extends the IURC's enforcement power over regulated Indiana utilities. The proposal would give the IURC the ability to: impose civil penalties, issue cease and desist orders, and modify permits issued by the Commission. Under current law, the IURC can only revoke a certificate or permit. While this bill would make more options available to the IURC in the event of a violation or act of noncompliance, it should not require any additional procedures or expenditures for the Commission.

The proposal requires the Attorney General to bring an action in a court that has jurisdiction over the noncompliant utility. If more legal actions are sought, the administrative burden of the Attorney General's office may increase.

Explanation of State Revenues: (Revised) Under this bill, the IURC could impose a civil penalty of up to

\$25,000 for each violation or fine the utility not more than 3% of the utility's annual gross operating revenue (as reported in the most recent *IURC Public Utility Annual Report*) or both for certain violations or acts of noncompliance. Each day the utility does not comply with the order would be considered a separate violation subject to a civil penalty. However, the total civil imposed as result of the authority authorized in this bill cannot exceed \$2.5 M per month. The bill also specifies that if the IURC and a public utility have reached a settlement agreement for a specific violation or act of noncompliance, the utility would not be subject to the civil penalties described in this bill in the event that the utility commits the same violation or act of noncompliance.

The bill provides that any assessed penalties are to be distributed to either ratepayers or utilities that have been directly affected by a violation or, if the penalty assessed is for a violation that does not directly affect a ratepayer or harm another utility, the bill provides that any fine revenue be deposited in the Public Utility Fund for specific purposes. It is not known in how many instances the IURC would impose monetary penalties.

IURC and OUCC Funding: The IURC and OUCC are funded from fees assessed on utilities equal to a percentage on their annual gross intrastate operating revenue. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Office of the Attorney General.

Local Agencies Affected:

Information Sources: Mike Leppert, Executive Director of External Affairs, IURC, (317) 232-2714.